REMARKS/ARGUMENTS

Upon entry of this amendment, which amends claims 1, 2, 4, 8-9, 13-14, 16, 20-21, 25-26, 28 and 32-34, and adds new claim 37, claims 1-37 will be pending. In the Office Action, claims 8, 10, 20, 22, 32, and 34 were objected to because of informalities; claims 1-4, 6-16, 18-28, and 30-36 were rejected under 35 U.S.C. §102(e) as being anticipated by Kawarai et al. (U.S. Patent No. 6,687,225, hereinafter "Kawarai"); and claims 5, 17 and 29 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kawarai in view of Lin et al. (U.S. Patent No. 5,966,163, hereinafter "Lin"). Applicants respectfully request withdrawal of the rejections in view of the amendments above and the remarks below.

Specification Objections

The disclosure was objected to because of the following informalities: the status of the related U.S. patent applications needs to be updated. In response, applicants have amended the specification to include an updated status.

Claim Objections

Claims 8, 10, 20, 22, 32, and 34 were objected to because of informalities. In response, applicants have amended the above claims per the suggestion of the Examiner. Applicants thank the Examiner for his suggestions and respectfully request withdrawal of the objections.

Section 102 Rejections

Claims 1-12

Claim 1 was rejected under 35 U.S.C. §102(e) as being anticipated by Kawarai. Applicants submit that Kawarai does not disclose or suggest every element of claim 1, as amended. For example, Kawarai does not disclose or suggest a first insertion scheme configured to send the insertion request using a first indicator that the empty memory cell should be shaped

using predetermined shaping parameters and a second insertion scheme configured to send the insertion request using a second indicator that the empty memory cell should be unshaped.

Kawarai discloses, in Fig. 1, a shaping buffer 1-22 that shapes user cells. An empty cell request is sent to shaping block 1-20. *See Kawarai*, col. 5, lines 59-62. An empty cell may be inserted based on a quality of service class of insertion cell. Kawarai states that shaping block 1-22 is configured to perform shaping by including an empty cell bandwidth within a user cell bandwidth. See *Kawarai*, col. 3, lines 45-50. In this respect, the user cell bandwidth is monitored based on a QoS assigned to the user cell bandwidth. Empty cells are inserted into the user cell bandwidth based on the QoS assigned. See *Kawarai*, col. 3, lines 59-67. Accordingly, shaping is performed on the inserted empty cells.

The Office Action cites Fig. 16 and col. 12, lines 13-20 as disclosing sending an insertion request using a dedicated unshaped connection identification. The Office Action states that the QoS #1 connection provides a quality guaranteed service and the QoS #2 connection provides a best effort service because the best effort connection is not subject to any kind of regulation and hence an unshaped connection.

Applicants submit that the QoS #2 connection does not disclose or suggest sending an insertion request using a second indicator that the empty memory cell should be unshaped. As disclosed in Kawarai, an empty cell request signal 16-4 is sent using the QoS class number (QoS #1 or QoS #2). See *Kawarai*, col. 12, lines 62-64. The empty cell is then inserted corresponding to the reported QoS class when bandwidth for the insertion of the cell of a QoS class can be secured. See *Kawarai*, col. 12, lines 62-67. Cell read-out controller 16-5 inserts an empty cell corresponding to the QoS class and secures bandwidth for the insertion of the OAM cell corresponding to the QoS. In other words, the empty cell is shaped according to the bandwidth being used and inserted in cell highway 16-9. Later, when the empty memory cell is encountered by cell insertion controller 16-10, a cell may be inserted in the empty memory cell. The cell is inserted in the empty memory cell that has already been shaped.

In contrast to Kawarai, claim 1 recites second insertion scheme where an indication that the empty memory cell should be unshaped is sent. Applicants submit that even a best effort service may provide shaping of an empty cell. For example, Kawarai states the best

effort service makes effective use of the OAM cell bandwidth. See *Kawarai,* col. 12, lines 14-20. The best effort service attempts to shape the empty cell and is thus Kavwarai does not disclose or suggest an empty memory cell that is unshaped. Kawarai also discloses that the best effort service may be ABR. See *Kawarai*, col. 6, lines 6-11. However, as disclosed in the specification of the present application on page 19, if an available bit rate (ABR) QoS is used, and has been reduced to 0, any cell inserted on the actual connection would not make it out of the SIF if the empty memory cells should be shaped. Accordingly, using a best effort service does not disclose or suggest sending an indication that the empty memory shell should be unshaped.

Accordingly, applicants respectfully request withdrawal of the rejection of claim 1. Claims 2-12 depend from claim 1 and thus derive patentability at least therefrom.

Applicants submit that claims 13 and 25 should be allowable for at least a similar rationale as discussed with respect to claim 1. Claims 14-24 and 26-36 depend from claims 13 and 25, respectively. Applicants respectfully request withdrawal of the rejections of claims 14-24 and 26-36.

New Claim 37

Applicants submit that the cited references do not disclose or suggest every element of claim 37. For example, the cited references do not disclose or suggest wherein the insertion of the empty memory slot into the data flow is performed before shaping of the data flow.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,

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